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CLEARINGHOUSE RULE 98-161

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. Sections NR 5.001 (7m) and 5.15 interpret ss. 30.66 and 30.77 (4), Stats. Consequently, these two sections of the statutes should be included in the statement of statutes interpreted in the analysis to the rule.

b. The titles in s. NR. 5.125 (3) (a) and (b) should conform with current drafting convention. Paragraph titles are written with an initial capital letter and italicized. [See s. 1.05 (2) (d), Manual.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. The analysis to the rule would be more helpful to readers if it identified the acts which required the changes proposed in the rule.

b. Section NR 5.001 (7m) refers to what appears to be a published document, i.e., Wisconsin Lakes, Publ-FM-800. A note should be included with the rule indicating where this publication may be obtained.

c. Section NR 5.125 (1) (b) refers to a manual. A note should be included in the rule indicating where this manual may be obtained. Also, it is not clear what the testing methods “J34a, J1970 or J2005” refer to. Although it appears from the current rule that the method J34a refers to a Society of Automotive Engineers standard, all three testing methods should be more

clearly identified. In addition, it appears that the Note at the end of current s. NR 5.125 should be amended to make reference to testing methods J1970 and J2005. Also, the rule should be reviewed to ensure compliance with the requirements for incorporating standards established by technical societies into the Wisconsin Administrative Code. [See s. 2.08, Manual.]

d. In s. NR 5.17, what are the federal lighting requirements that boat operators must comply with? A cross-reference to the applicable federal laws or regulations should be included in the rule. It seems that such direction would be needed in order for the rule to comply with the statutory directive to supplement the statutory lighting requirements to keep the requirements in conformity with lighting rules adopted by the U.S. Coast Guard. [See s. 30.61 (9), Stats.]

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. NR 5.001 (4), the word “a” after the word “means” should be deleted.

b. In s. NR 5.001 (16), what is a “designated person”? Who designates the person? How is he or she designated? Is the term referring to a “person designated by a boat dealer or manufacturer,” or some other “designated person”? The meaning of the term should be clarified. In addition, it should be noted that s. NR 5.001 (4) and (16) define terms that are no longer used in s. 30.52 (5) (a) 3., Stats., following the enactment of 1997 Wisconsin Act 198.

c. For purposes of clarity, it appears that the phrase “of these methods” should be inserted at the end of s. NR 5.125 (1) (b).

d. The word “manufacturers” in the title to s. NR 5.125 (3) (a), should contain an apostrophe.

e. In s. NR 5.125 (4), the word “it” should be replaced by “the boat.”

f. The second sentence of s. NR 5.15 should, for the sake of clarity, be rewritten in substantially the following form: “The sign shall list, in letters with a minimum height of one inch, a summary, synopsis, or outline of those restrictions, or shall contain a map showing those areas with local restrictions, or both, including speed limits,”

g. Section NR 5.18 provides that the department “may authorize” boating education instructors to retain up to 50% of the fee. How is this authorization done? Is it case-by-case, or does the department intend to make an annual determination as to whether and how much of the fee may be retained? This point should be clarified. Also, the fiscal note does not appear to contemplate that part of the fees will be kept by local instructors.

h. In the effective date provision of the rule, a period should replace the comma after “April 1, 1999.”